

Coast Guard, DHS

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§ 12.01-9 Paperwork approval.

(a) This section lists the control numbers assigned by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (Pub. L. 96-511) for the reporting and record keeping requirements in this part.

(b) The following control numbers have been assigned to the sections indicated:

(1) OMB 2115-0624—46 CFR 12.02-17 and 12.03-1.

(2) [Reserved]

[CGD 95-062, 62 FR 34535, June 26, 1997]

Subpart 12.02—General Requirements for Certification

§ 12.02-3 Where documents are issued.

(a) Certificates of identification, certificates of service, certificates of efficiency, and continuous discharge books are issued to applicants qualifying therefor at any Marine Inspection Office of the Coast Guard during usual business hours.

(b)(1) Coast Guard Merchant Marine Details abroad are authorized to conduct examinations for upgrading of seamen, but are not prepared to conduct the physical examination where required. Merchant Marine Details will therefore not issue regular certificates, but temporary permits in lieu thereof. Merchant Marine Details will instruct the recipient of each temporary permit to present it to the Officer in Charge, Marine Inspection, upon arrival in the first port in the United States in which a Marine Inspection Office is located in order to exchange it for a permanent certificate.

(2) The temporary permit shall be accepted in a Marine Inspection Office as proof that the bearer has complied with the rules and regulations governing the issuance of certificates, except as noted in the body of the temporary permit. The requirements noted in the exceptions will be complied with as in the case of other applicants.

(3) The written examinations are forwarded to the Commanding Officer, National Maritime Center by Merchant Marine Details, and any Marine Inspection Office at which an applicant with a temporary permit appears may request and obtain the examination in

the case from the Commanding Officer, National Maritime Center. Any Marine Inspection Office which doubts the propriety of issuing a permanent certificate in lieu of a temporary permit which has been issued by a foreign Merchant Marine Detail shall inform the Commanding Officer, National Maritime Center fully as to the circumstances.

[CGFR 65-50, 30 FR 16640, Dec. 30, 1965, as amended by CGD 95-072, 60 FR 50460, Sept. 29, 1995; USCG-1998-4442, 63 FR 52189, Sept. 30, 1998]

§ 12.02-4 Basis for denial of documents.

(a) No person who has been convicted by a court of record of a violation of the dangerous drug laws of the United States, the District of Columbia, or any State or territory of the United States is eligible for an original merchant mariner's document, except as provided by the provisions of paragraph (c) of this section. No person who has ever been the user of, or addicted to the use of, a dangerous drug, or has ever been convicted of an offense described in section 205 of the National Driver Register Act of 1982 (49 U.S.C. 30304) due to the addiction or abuse of alcohol is eligible for a merchant mariner's document unless he or she furnishes satisfactory evidence of suitability for service in the merchant marine as provided in paragraph (e) of this section.

(b) An applicant who fails a chemical test for dangerous drugs required by § 12.02-9 will not be issued a merchant mariner's document.

(c) *Criminal Record Review.* The Officer in Charge, Marine Inspection, may require a criminal record check of an applicant for a merchant mariner's document issued as an original or re-issued with a new expiration date. An applicant conducting simultaneous merchant mariner's credential transactions shall undergo only one criminal record check. Applicants must provide written disclosure of all prior convictions at the time of application.

(1) If a criminal record check is required by the Officer in Charge, Marine Inspection, applicants shall provide fingerprints at the time of application.

The fingerprints will be used to determine whether the applicant has a record of a criminal conviction. An application may be disapproved if the individual's criminal record leads the Officer in Charge, Marine Inspection to determine that the applicant cannot be entrusted with the duties and responsibilities of the merchant mariner's document for which application is made. If an application is disapproved, the Officer in Charge, Marine Inspection will notify the applicant in writing of the reason(s) for disapproval and advise the applicant that the appeal procedures in §1.03 of this chapter apply. No examination will be given pending decision on appeal.

(2) The Officer in Charge, Marine Inspection will use table 12.02-4(c) to evaluate applicants for merchant mariner's documents who have criminal convictions. The table lists major categories of criminal activity and is not to be construed as an all-inclusive list. If an applicant is convicted of an offense that does not appear on the list, the Officer in Charge, Marine Inspection will establish an appropriate assessment period using the list as a guide. The assessment period commences when an applicant is no longer incarcerated. The applicant must establish proof of the time incarcerated and periods of probation and parole to the satisfaction of the Officer in Charge, Marine Inspection. The assessment period may include supervised or unsupervised probation or parole. A conviction for a drug offense more than 10 years prior to the date of application will not alone be grounds for denial.

(3) When an applicant has convictions for more than one offense, the minimum assessment period will be the longest minimum in table 12.02-4(c) and table 12.02-4(d) based upon the applicant's convictions; the maximum assessment period will be the longest shown in table 12.02-4(c) and table 12.02-4(d) based upon the applicant's convictions.

(4) If a person with a criminal conviction applies for a merchant mariner's document before the minimum assessment period shown in table 12.02-4(c), or established by the Officer in Charge, Marine Inspection under paragraph (c)(2) of this section has elapsed, then

the applicant must provide, as part of the application package, evidence of suitability for service in the merchant marine. Factors which are evidence of suitability for service in the merchant marine are listed in paragraph (e) of this section. The Officer in Charge, Marine Inspection will consider the applicant's evidence submitted with the application and may issue the merchant mariner's document in less than the listed minimum assessment period if the Officer in Charge, Marine Inspection is satisfied that the applicant is suitable to hold the merchant mariner's document for which he or she has applied. If an application filed before the minimum assessment period has elapsed does not include evidence of suitability for service in the merchant marine, then the application will be considered incomplete and will not be processed by the Officer in Charge, Marine Inspection until the applicant provides the necessary evidence as set forth in paragraph (e) of this section.

(5) If a person with a criminal conviction applies for a merchant mariner's document during the time between the minimum and maximum assessment periods shown in table 12.02-4(c) or established by the Officer in Charge, Marine Inspection under paragraph (c)(2) of this section, then the Officer in Charge, Marine Inspection shall consider the conviction and, unless there are offsetting factors, shall grant the applicant the merchant mariner's document for which he or she has applied. Offsetting factors include such factors as multiple convictions, failure to comply with court orders (e.g., child support orders), previous failures at rehabilitation or reform, inability to maintain steady employment, or any connection between the crime and the safe operation of a vessel. If the Officer in Charge, Marine Inspection considers the applicant unsuitable for service in the merchant marine at the time of application, the Officer in Charge, Marine Inspection may disapprove the application.

(6) If a person with a criminal conviction applies for a merchant mariner's document after the maximum assessment period shown in table 12.02-4(c) or established by the Officer in Charge, Marine Inspection under paragraph

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(c)(2) of this section has elapsed, then the Officer in Charge, Marine Inspection will grant the applicant the merchant mariner's document for which he or she has applied unless the Officer in Charge, Marine Inspection considers the applicant still unsuitable for service in the merchant marine. If the Officer in Charge, Marine Inspection disapproves an applicant with a conviction older than the maximum assessment period listed in table 12.02–4(c),

the Officer in Charge, Marine Inspection will notify the applicant in writing of the reason(s) for the disapproval including the Officer in Charge, Marine Inspection's reason(s) for considering a conviction older than the maximum assessment period listed in table 12.02–4(c). The Officer in Charge, Marine Inspection will also inform the applicant, in writing, that the reconsideration and appeal procedures contained in § 1.03 of this chapter apply.

TABLE 12.02–4(c)—GUIDELINES FOR EVALUATING APPLICANTS FOR MERCHANT MARINER'S DOCUMENTS WHO HAVE CRIMINAL CONVICTIONS

Crime ¹	Assessment periods	
	Minimum	Maximum
Crimes Against Persons		
Homicide (intentional)	7 years	20 years.
Homicide (unintentional)	5 years	10 years.
Assault (aggravated)	5 years	10 years.
Assault (simple)	1 year	5 years.
Sexual Assault (rape, child molestation)	5 years	10 years.
Other crimes against persons ² .		
Vehicular Crimes		
Conviction involving fatality	1 year	5 years.
Reckless Driving	1 year	2 years.
Racing on the Highway	1 year	2 years.
Other vehicular crimes ² .		
Crimes Against Public Safety		
Destruction of Property	5 years	10 years.
Other crimes against public safety ² .		
Crimes Involving National Security		
Terrorism, Acts of Sabotage, Espionage and related offenses	7 years	20 years.
Dangerous Drug Offenses ^{3,4,5}		
Trafficking (sale, distribution, transfer)	5 years	10 years.
Dangerous drugs (Use or possession)	1 year	10 years.
Other dangerous drug convictions ⁶ .		

¹ Conviction of attempts, solicitations, aiding and abetting, accessory after the fact, and conspiracies to commit the criminal conduct listed in this table carry the same minimum and maximum assessment periods provided in the table.

² Other crimes are to be reviewed by the Officer in Charge, Marine Inspection to determine the minimum and maximum assessment periods depending on the nature of the crime.

³ Applicable to original applications only. Any applicant who has ever been the user of, or addicted to the use of, a dangerous drug shall meet the requirements of paragraph (a) of this section. Note: Applicants for reissue of a merchant mariner's document with a new expiration date including a renewal or additional endorsement(s), who have been convicted of a dangerous drug offense while holding a merchant mariner's document, may have their application withheld until appropriate action has been completed by the Officer in Charge, Marine Inspection under the regulations which appear in 46 CFR part 5 governing the administrative actions against merchant mariner credentials.

⁴ The OCMI may consider dangerous drug convictions more than 10 years old only if there has been a dangerous drug conviction within the past 10 years.

⁵ Applicants must demonstrate rehabilitation under paragraph (e) of this section, including applicants with dangerous drug use convictions more than ten years old.

⁶ Other dangerous drug convictions are to be reviewed by the Officer in Charge, Marine Inspection on a case by case basis to determine the appropriate assessment period depending on the nature of the offense.

(d) *National Driver Register*. A merchant mariner's document will not be issued or reissued with a new expiration date unless the applicant consents

to a check of the NDR for offenses described in section 205(a)(3)(A) or (B) of the NDR Act (i.e., operation of a motor vehicle while under the influence of, or

impaired by, alcohol or a controlled substance; and any traffic violations arising in connection with a fatal traffic accident, reckless driving, or racing on the highways). The Officer in Charge, Marine Inspection will not consider NDR listed civil convictions that are more than 3 years old from the date of request unless that information relates to the current suspension or revocation of the applicant's license to operate a motor vehicle. The Officer in Charge, Marine Inspection may determine minimum and maximum assessment periods for NDR listed criminal convictions using table 12.02-4(c). An applicant conducting simultaneous merchant mariner's credential transactions is subject to only one NDR check.

(1) Any application may be disapproved if information from the NDR check leads the Officer in Charge, Marine Inspection to determine that the applicant cannot be entrusted with the duties and responsibilities of the merchant mariner's document for which the application is made. If an application is disapproved, the Officer in Charge, Marine Inspection will notify the applicant in writing of the reason(s) for disapproval and advise the applicant that the appeal procedures in §1.03 of this chapter apply. No examination will be given or merchant mariner's document issued pending decision on appeal.

(2) Prior to disapproving an application because of information received from the NDR, the Officer in Charge, Marine Inspection will make the information available to the applicant for review and written comment. The applicant may submit reports from the applicable State concerning driving record and convictions to the Coast

Guard Regional Examination Center (REC) processing the application. The REC will hold an application with NDR listed convictions pending the completion of the evaluation and delivery by the individual of the underlying State records.

(3) The guidelines in table 12.02-4(d) will be used by the Officer in Charge, Marine Inspection when evaluating applicants for merchant mariner's documents who have drug or alcohol related NDR listed convictions. Non-drug or alcohol related NDR listed convictions will be evaluated by the Officer in Charge, Marine Inspection under table 12.02-4(c) as applicable.

(4) An applicant may request an NDR file check for *personal* use in accordance with the Federal Privacy Act of 1974 (Pub. L. 93-579) by contacting the NDR at the following address: National Driver Register, Nassif Building, 400 7th Street SW., Washington, DC 20590.

(i) Applicants should request Form NDR-PRV or provide the following information on a notarized letter:

- (A) Full legal name;
- (B) Other names used;
- (C) Complete mailing address;
- (D) Driver license number;
- (E) Eye color;
- (F) Social security number;
- (G) Height;
- (H) Weight; and
- (I) Sex.

(ii) The NDR will respond to every valid inquiry including requests which produce no record(s) on the NDR file. Records can be made available, within a reasonable amount of time after the request, for personal inspection and copying during regular working hours at 7:45 a.m. to 4:15 p.m., each day except Federal holidays.

TABLE 12.02-4(D)—GUIDELINES FOR EVALUATING APPLICANTS FOR MERCHANT MARINER'S DOCUMENTS WHO HAVE NDR MOTOR VEHICLE CONVICTIONS INVOLVING DANGEROUS DRUGS OR ALCOHOL¹

No. of convictions	Date of conviction	Assessment period
1	Less than 1 year	1 year from date of conviction.
1	More than 1, less than 3 years ...	Application will be processed, unless suspension, or revocation ² is still in effect. Applicant will be advised that additional conviction(s) may jeopardize merchant mariner credentials.
1	More than 3 years old	Not necessary unless suspension or revocation is still in effect.
2 or more	Any less than 3 years old	1 year since last conviction and at least 3 years from 2nd most recent conviction, unless suspension or revocation is still in effect.

TABLE 12.02-4(D)—GUIDELINES FOR EVALUATING APPLICANTS FOR MERCHANT MARINER'S DOCUMENTS WHO HAVE NDR MOTOR VEHICLE CONVICTIONS INVOLVING DANGEROUS DRUGS OR ALCOHOL¹—Continued

No. of convictions	Date of conviction	Assessment period
2 or more	All more than 3 years old	Application will be processed unless suspension or revocation is still in effect.

¹Any applicant who has ever been the user of, or addicted to the use of, a dangerous drug shall meet the requirements of paragraph (a) of this section.

²Suspension or revocation, when referred to in table 12.02-4(d), means a State suspension or revocation of a motor vehicle operator's license.

(e) If an applicant for an original merchant mariner's document has one or more alcohol or dangerous drug related criminal or NDR listed convictions; if the applicant has ever been the user of, or addicted to the use of, a dangerous drug; or if the applicant applies before the minimum assessment period for his or her conviction has elapsed; the Officer in Charge, Marine Inspection may consider the following factors, as applicable, in assessing the applicant's suitability to hold a merchant mariner's document. This list is intended as a guideline. The Officer in Charge, Marine Inspection may consider other factors which he or she judges appropriate, such as:

(1) Proof of completion of an accredited alcohol- or drug-abuse rehabilitation program.

(2) Active membership in a rehabilitation or counseling group, such as Alcoholics or Narcotics Anonymous.

(3) Character references from persons who can attest to the applicant's sobriety, reliability, and suitability for employment in the merchant marine including parole or probation officers.

(4) Steady employment.

(5) Successful completion of all conditions of parole or probation.

[CGFR 69-116, 35 FR 6860, Apr. 30, 1970, as amended by CGD 91-223, Jan. 23, 1995; CGD 95-072, 60 FR 50460, Sept. 29, 1995; CGD 91-212, 60 FR 65487, Dec. 19, 1995]

§ 12.02-5 Form in which documents are issued.

(a) Every certificate of service, certificate of efficiency, or certificate of identification issued or reissued after November 1, 1945, shall be in the form of a merchant mariner's document, Coast Guard Form CG-2838, and wherever such certificates are mentioned in this part they shall be deemed to in-

clude merchant mariner's documents representing such certificates.

(b) Continuous discharge books are issued on Coast Guard Form CG-719.

§ 12.02-7 When documents are required.

(a) Every seaman employed on any merchant vessel of the United States of 100 gross tons or upward, except vessels employed exclusively in trade on the navigable rivers of the United States, shall be issued, at the option of the seaman, a continuous discharge book, a certificate of identification, or merchant mariner's document representing such certificate of identification, which shall be retained by him. This book or certificate of identification or merchant mariner's document will bear a number, and this same number shall be shown on all certificates of service or efficiency issued to the holder of the book or certificate or document. Provisions of this section are not applicable to unrigged vessels except seagoing barges and certain tank barges.

(b) Every seaman, as referred to in paragraph (a) of this section, shall produce a continuous discharge book or certificate of identification or merchant mariner's document representing such a certificate to the United States shipping commissioner before signing Articles of Agreement, and where the seaman is not signed on before a shipping commissioner, one of these documents shall be exhibited to the master of the vessel at the time of his employment. Seamen who do not possess one of these documents may be employed at a foreign port or place.

(c)(1) Every person employed on any merchant vessel of the United States of 100 gross tons and upward, except those navigating rivers exclusively and the smaller inland lakes, below the rank of